

### **REMARKS**

The Examiner has withdrawn claims 14, 19, and 29 from examination based on Applicant's amendment filed 11 April 2006.

The Examiner has objected to the drawings under 37 CFR 1.83(a).

The Examiner rejected claims 17 and 31 under 35 U.S.C. § 112, 2<sup>nd</sup> ¶ as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter.

The Examiner rejected claims 1, 3-8, 10, 15 and 16 under 35 U.S.C. § 102(b), as allegedly being anticipated by Christine (U.S. Patent No. 4,256,242).

The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Christine (U.S. Patent No. 4,256,242) in view of Lee et al. (U.S. Patent No. 6,036,056).

Applicants respectfully traverse the §112, 2<sup>nd</sup> ¶, § 102 and § 103 rejections with the following arguments.

**Detailed Action**

The Examiner has withdrawn claims 14, 19, and 29 from examination based on Applicant's amendment filed 11 April 2006.

Applicant has amended the claim identifier to read "withdrawn" for claims 14, 19, and 29.

**35 U.S.C. § 112, 2<sup>nd</sup> ¶**

The Examiner rejected claims 17 and 31 under 35 U.S.C. § 112, 2<sup>nd</sup> ¶ as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter.

Applicant respectfully contends that claims 17 and 31 no longer fail to particularly point out and distinctly claim the subject matter in view of Applicant's amendments. With respect to claim 31, Applicant has amended the claims to read that rotation of the shaft will cause movement of the "metering element," not the metering device in accordance with the limitations of claim 31. Therefore, Applicant respectfully requests reconsideration and removal of the § 112, 2<sup>nd</sup> ¶ rejection for claim 31.

Furthermore, Applicant contends that claim 17 is no longer indefinite in view of Applicant's amendments. Specifically, claim 17 now recites the element 'valve' with structural connection to other elements (*i.e.* compressible line and material dispensing end). Additionally, claim 17 now recites the element 'base' with structural connection to the material delivery unit. Applicant has also amended claim 17 to remove any vagueness in regards to how the dispensing end moves with material delivery unit during operation. Accordingly, Applicant respectfully requests reconsideration and removal of the § 112, 2<sup>nd</sup> ¶ rejection for claim 17.

**35 U.S.C. § 102(b)**

The Examiner rejected claims 1, 3-8, 10, 15 and 16 under 35 U.S.C. § 102(b), as allegedly being anticipated by Christine (U.S. Patent No. 4,256,242).

Applicant respectfully contends that Christine does not anticipate the claim limitations because it does not teach each and every feature of the claimed invention. For example, Christine does not teach translational movement of the metering element. The metering element in Christine (64) is only capable of rotational movement, *not translational movement*. The metering element recited by the claim limitations is capable of both rotational and translational movement. The claims have been amended to affirmatively reflect such novelty.

Furthermore, the metering element in Christine (64) is not attached to a moveably secured carriage block as recited in the claim limitations. Christine fails to disclose attaching its metering element (roller wheel 64) to a moveable secure carriage block, which allows for horizontal movement of the metering element. Christine discloses only angular displacement of the metering element roller and the parallel bars (62) attached to the roller. Additionally, the metering element in Christine discloses the use of a stopping member (82) which “limits the stroke of roller 64” (Col.2 Ln.64). The metering element contacts the stopper at an angle, limiting the ability of the metering element to freely move in a horizontal direction.

Additionally, Christine fails to disclose a control system operatively attached to said metering element, where said control system allows for control of the selectable peristaltic effect and said metering element. The Examiner admits that Christine does not disclose a control system for controlling the peristaltic effect (page 5). Thus, Christine does not teach each and every element of the claim limitations. Applicant is aware that the Examiner asserts that the

subject matter of claim 2 (a control system for controlling the peristaltic effect) is obvious over Christine in view of Lee et al. However, the combination of Christine and Lee et al. do not teach each and every element of claim 1 due to the deficiencies in the primary reference; therefore, the claim limitations are not obvious and unpatentable.

Moreover, Christine fails to disclose the ability for the metering element to move vertically, for access to the compressible line and routine maintenance. The roller wheel (64) is attached to parallel bars (62) which are ultimately mounted to the wall section (39) via brackets (59). Thus, the metering element cannot be removed to provide clear access to the compressible material line without complete disassembly of the dispenser unit.

Based on the amendments to the claims and the accompanying arguments, Applicant respectfully contends that Christine does not teach each and every feature of the claim limitations. Therefore, Applicant respectfully requests reconsideration and removal of the §102(b) rejection, and firmly believes that claims 1, 3-8, 10, 15 and 16 are in condition for allowance.

**35 U.S.C. § 103(a)**

The Examiner rejected claim 2 under 35 U.S.C. §103(a) as allegedly being unpatentable over Christine (U.S. Patent No. 4,256,242) in view of Lee et al. (U.S. Patent No. 6,036,056).

Applicant has canceled claim 2, placing the subject matter of claim into independent claim 1 to add further limitations to claim 1. Because claim 2 has been canceled, Applicant respectfully requests removal of the §103(a) rejection.

### **CONCLUSION**

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

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